

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

**RECEIVED****JUL 24 2024****U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS****UNITED STATES DISTRICT COURT**

for the

Eastern District of Missouri

\_\_\_\_ Division

**4:24cv1012 JSD***(to be filled in by the Clerk's Office)*Timothy Clarke Bagwell  
Pro Se*Plaintiff(s)**(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)***-v-**Excelsior University, David Schejbal, Mark Howe, Scott  
Dolan, Frank Azuola,  
Leah M. Sciabarrasi, Santarvis Brown*Defendant(s)**(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*Jury Trial: *(check one)* ☒ Yes ☐ No**COMPLAINT FOR EMPLOYMENT DISCRIMINATION****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Timothy Clarke Bagwell, Ph.D.

Street Address 3424 Tedmar Avenue

City and County Saint Louis Saint Louis City

State and Zip Code MO 63139

Telephone Number 314 610-0581

E-mail Address dr.tbagwell@gmail.com

**B. The Defendant(s)**

## Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

## Defendant No. 1

Name Excelsior University  
 Job or Title *(if known)* Employer  
 Street Address 7 Columbia Circle  
 City and County Albany, Albany County  
 State and Zip Code New York 12203-5159  
 Telephone Number 518 608-8439  
 Email Address *(if known)* mdisiena@excelsior.edu (General Counsel – Michael Disiena)

## Defendant No. 2

Name David Schejbal  
 Job or Title *(if known)* President, Excelsior University  
 Street Address 7 Columbia Circle  
 City and County Albany, Albany County  
 State and Zip Code New York 12203-5159  
 Telephone Number 518 608-8164  
 Email Address *(if known)* dschejbal@excelsior.edu

## Defendant No. 3

Name Mark Howe  
 Job or Title *(if known)* Vice President, Human Resources  
 Street Address 7 Columbia Circle  
 City and County Albany, Albany County  
 State and Zip Code New York 12203-5159  
 Telephone Number 518 464-8508  
 Email Address *(if known)* mhowe@excelsior.edu

## Defendant No. 4

Name Frank Azuola  
 Job or Title *(if known)* Chief Information Officer  
 Street Address 7 Columbia Circle  
 City and County Albany, Albany County  
 State and Zip Code New York 12203-5159  
 Telephone Number 518 464-8764  
 Email Address *(if known)* fazuola@excelsior.edu

## Defendant No. 5

Name Scott Dolan  
 Job or Title *(if known)* Executive Dean, College of Liberal Arts & Sciences Provost  
 Street Address 7 Columbia Circle  
 City and County Albany, Albany County  
 State and Zip Code New York 12203-5159  
 Telephone Number 518 608-8292  
 Email Address *(if known)* sdolan@excelsior.edu

## Defendant No. 6

Name Leah M. Sciabarrasi  
 Job or Title *(if known)* Associate Dean, School of Business  
 Street Address 7 Columbia Circle  
 City and County Albany, Albany County  
 State and Zip Code New York 12203-5159

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Telephone Number	N/A
Email Address <i>(if known)</i>	lsciabarrasi@excelsior.edu

**Defendant No. 7**

Name	Santarvis Brown
Job or Title <i>(if known)</i>	Department Chair, Graduate Business
Street Address	7 Columbia Circle
City and County	Albany, Albany County
State and Zip Code	New York 12203-5159
Telephone Number	N/A
Email Address <i>(if known)</i>	sbrown3@excelsior.edu

**C. Employment**

The address at which I sought employment or was employed by the defendant(s) is

Name	Excelsior University
Street Address	7 Columbia Circle
City and County	Albany, Albany County
State and Zip Code	New York 12203-5159
Telephone Number	(518) 464-8508

**Note on Item I. C. – Place of Employment.**

The employer is in Albany, New York. However, many of its faculty reside as remote workers in other states. I am one of those faculty who resides in St. Louis, Missouri. The New York Division of Human Rights ruled it had no jurisdiction over my complaint because the "impact" was in Missouri.

## II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*

☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

☐ Other federal law *(specify the federal law)*:

☐ Relevant state law *(specify, if known)*:

☐ Relevant city or county law *(specify, if known)*:

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## III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

☐

Failure to hire me.

☐

Termination of my employment.

☒

Failure to promote me.

☐

Failure to accommodate my disability.

☒

Unequal terms and conditions of my employment.

☒

Retaliation.

☐

Other acts *(specify)*: \_\_\_\_\_

*(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)*

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

05/12/2022 by Leah Sciabarrasi. 01/13/2023 Retaliation. 01/22/2023 Mark Howe. 04/24/2024 hiring of Santarvis Brown and with that continuing denial of teaching contracts. Frank Azuola deletion of emails following Missouri Human Right Commission with Excelsior.

C. I believe that defendant(s) *(check one)*:

☒

is/are still committing these acts against me.

☐

is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

☐

race

☐

color

☐

gender/sex

☐

religion

☐

national origin

☒

age *(year of birth)* 1955 *(only when asserting a claim of age discrimination.)*

☐

disability or perceived disability *(specify disability)*

E. The facts of my case are as follows. Attach additional pages if needed.

To manage the supervisory vacancy with the Excelsior University MBA program, Leah Sciabassi was given purview over my two classes about halfway through the classes. On or about May 12, 2022, she emailed me indicating she had been in my online classrooms without notice. She alleged performance issues within my classroom and presented my student reviews as "evidence of the truth" of the problem. Although, to this date, I had no supervisor at Excelsior or any other institution who used student reviews this way, this was a red flag. Her actions were outside the norm and, as an at-will adjunct, quite frightening. I experienced this as harassment.

I filed a complaint with HR via VP Mark Howe, pointing out these deviations. Additionally, I pointed out that she was sharing her managerial insights with her assigned faculty from a website outside the Excelsior.edu domain and was using the Excelsior logo in violation of Excelsior trademark rights at that location.

Mr. Howe followed up, indicating that they had discussed and resolved the issues with Dr. Sciabarrasi and that she was informed of the University's policy against Retaliation.

On 01/13/2023, the behavior reemerged with an email from Dr. Sciabarrasi indicating that I scheduled an appointment with her to discuss performance. She again included a copy of my student reviews.

I forwarded this email with my concerns and requested that she only be informed of her error again. I did not file this as a formal complaint and wish to correct the situation informally.

I received an email from Mr. Howe dated 01/22/2023 indicating that I should "keep an open mind" in student feedback and faculty performance. He was dismissive and trivialized my concerns as if a new policy was in place when no such policy was communicated. He protected Dr. Sciabarrasi but became willing to participate in the abuse and harassment.

It later emerged that essential emails had been deleted from my Excelsior Outlook account. Fortunately, I had copies, but the specific deletions led me to believe in Retaliation and harassment. The deletions came sometime after my filing a complaint with the Missouri Commission on Human Rights.

Leah Sciabarrasi announced the selection of Santarvis Brown on 04/25/2023, and he and Sciabarrasi cooperated in not issuing teaching contracts to me.

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*(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)*

#### **IV. Exhaustion of Federal Administrative Remedies**

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

I believe this was done on my behalf by the Missouri Commission on Human Rights sometime before my Missouri Right to Sue letter of 04/24/2024.

B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 04/27/2024.

*(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)*

C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☒

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. **Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I claim \$60,000 in lost wages over two years because of retaliatory acts by Leah M Sciabarrasi and Santarvis Brown, who she selected as Chair of the MBA program over my application for the same position. Those retaliatory acts were their denial of additional teaching contracts by Sciabarrasi and Brown.

I claim \$120,000 in punitive damages for the University's actions in backing out of their original findings against Leah M Sciabarrasi in Mark Howe's arbitrary and capricious rejection of my claim of further retaliation by Leah M Sciabarrasi. This act initiated my decision to file external complaints.

I claim \$210,000 (\$70,000 per year over three years) in salary that I would have earned if I had been selected for the Program Director/Chair position.

I further claim \$250,000 in punitive damages caused by the University's involvement in deleting critical emails from my Outlook email account. This act had to have been carried out by an Outlook email administrator under the direction of higher-level management, including Frank Azuola or his staff.

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**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.


**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 07/24/2024

Signature of Plaintiff

Printed Name of Plaintiff

  
Timothy Clarke Bagwell

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address